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FOREIGN CORPORATIONS—FAILURE TO COMPLY WITH LAWS—EFFECT ON CONTRACTS AND RIGHT TO SUE—"DOING BUSINESS" WITHIN THE STATE.—Plaintiff, a foreign corporation doing business in Utah, sues to recover the value of goods sold and delivered. Defendant's answer alleged that the plaintiff had no legal capacity to sue and that the contract sued on was invalid because the plaintiff had not complied with the laws imposing certain conditions precedent to the right of foreign corporations to do business in the state. These statutes provided that non-complying corporations should not be entitled to the "benefits" of the corporation laws of the state and also imposed a penalty upon their agents. *Held* (Bartch, C. J., dissenting), that the contract is valid and the plaintiff may sue thereon. *A. Booth & Co. v. Weigand* (1906), — Utah —, 83 Pac. Rep. 734.

The former decision, reported in 28 Utah 372, 79 Pac. 570, discussed in 3 MICH. LAW REV. 486, was annulled and the dictum in *Barse Live Stock Co. v. Range Valley Cattle Co.*, 16 Utah 59, 50 Pa. 630, disapproved. The term "benefits" was held to refer only to special privileges (e. g., the power of eminent domain), and not to include the *power* to contract and the *right* to sue. The cases are in irreconcilable conflict on the questions involved. On the one hand, it is held that the failure of a foreign corporation to comply with the domestic statutes prescribing the conditions on which it shall be permitted to do business within the state does not render its contracts made therein void, nor prevent it from suing thereon, unless the statute so states in express language, or an intention to this effect clearly appears from the language used. *Washburn Mill Co. v. Bartlett*, 3 N. D. 138, 54 N. W. 544; *State v. Am. Book Co.*, 69 Kan. 1, 76 Pac. 411; *Jarvis Conklin M. T. Co. v. Willhoit*, 84 Fed. 514; *Kindel v. Beck & P. L. Co.*, 19 Colo. 310, 35 Pac. 538, 24 L. R. A. 311; while in other states a contrary doctrine is maintained; *Cincinnati, etc., Co. v. Rosenthal*, 55 Ill. 85, 8 Am. R. 626; *In re Comstock*, 3 Sawy. 218, Fed. Cas. No. 3, 078; *Henni v. Fidelity Building & Loan Association*, 61 Nebr. 744, 86 N. W. 475, 87 Am. St. R. 519; *Hanchey v. Southern Home Building & Loan Assn.*, 140 Ala. 245, 37 So. 272. It is sometimes said that if a penalty is imposed for doing business before compliance with the conditions named, the penalty is exclusive and the contract may be enforced; *Fire Engine Co. v. Town of Mt. Vernon*, 9 Wash. 142, 37 Pac. 287; *Toledo Tie & L. Co. v. Thomas*, 33 W. Va. 566, 11 S. E. 37, 25 Am. St. R. 925; 2 WILGUS CORP. CAS. 1510, reaffirmed in *Thompson v. Nat. Mut. Building & Loan Assn.*, 50 S. E. 756; contra, *Aetna Ins. Co. v. Harvey*, 11 Wis. 394; while if no penalty is imposed, the contracts must be held unenforceable, as otherwise the statute might be evaded with impunity; *Bank of British Columbia v. Page*, 6 Ore. 431, 436, discussing the authorities. Some of the statutes expressly declare that no action may be maintained on such contracts until compliance with the statutes, in which case the only effect of a failure to comply is to suspend the remedy. *Union Cloak & Suit Co. v. Carpenter*, 102 Ill. App. 339; *Neuchatel Asphalte Co. v. The Mayor*, 155 N. Y. 373, 49 N. E. 1043; *Woolfort v. Dixie Cotton Oil Co.* — Ark. — 91 S. W. 306; but such statutes do not limit the right to sue in the federal courts. *Blodgett v. Lanyon Zinc Co.*, 120 Fed. 893. In the recent case of *Tri-State Amusement Co. v. Forest Park Highlands Am. Co.* — Mo. —, 90 S. W.

1020, it was held that where the statute provides that non-complying corporations shall not be authorized to sue in the Missouri courts a contract made before such compliance is void, and subsequent performance of the conditions named does not entitle it to sue thereon. See also *Dela. R., etc., Co. v. Pass. Ry.*, 204 Pa. St. 22, 53 Atl. 533. The decision in the instant case seems to be limited to cases where the contract sued on is executed. *Russell v. Jones*, 101 Ala. 261, 13 So. 145. The dissenting opinion is based upon the fact that the Utah provisions are expressly made mandatory. See generally THOMPSON, PRIVATE CORPORATIONS, §§7950-7958; BEALE, FOREIGN CORPORATIONS, §§212-216.

INJUNCTION—JURISDICTION—CONSTITUTIONAL LAW.—A statute of Texas authorized injunction proceedings against gambling houses either at the suit of the state or of a citizen thereof, regardless of whether he was personally injured by the acts complained of, or not. By virtue of this statute, at the instance of a private citizen, relator was enjoined from running a gambling house. The injunction was disobeyed, relator was adjudged in contempt of court, fined \$100 and allotted three days in the county jail. It was not shown that the complainant was personally injured by the acts enjoined. In an original application for a writ of habeas corpus, *held*, that the statute was constitutional and a valid exercise of the police power. *Ex parte Allison* (1905), — Tex. Civ. App. —, 90 S. W. Rep. 492.

It is a general proposition that the writ of injunction cannot be resorted to merely for the purpose of enjoining crime. HIGH, INJUNCTIONS (3rd Ed), §20. But where rights of property or civil rights are involved, injunctions may issue notwithstanding the acts enjoined constitute a crime. *Littleton v. Fritz*, 65 Iowa 488, 22 N. W. 641, 54 Am. Rep. 19; *Eilenbecker v. Plymouth Co.*, 134 U. S. 31, 10 Sup. Ct. 424, 33 L. Ed. 801; *State v. Saunders*, 66 N. H. 39, 25 Atl. 588, 18 L. R. A. 646. A gambling house, at common law and under the Texas statutes, is a nuisance, and may be enjoined by the person injured. *King v. Dixon*, 10 Mod. 335; *State v. Patterson*, 14 Tex. Civ. App. 465, 37 S. W. 478. A public nuisance may be enjoined at the suit of the state, the people, municipality or some officer representing them. *Atty. General v. Woods*, 108 Mass. 436. But an individual cannot bring suit at common law, unless he sustains some special, direct and substantial damage thereby. *Cranford v. Tyrrell*, 128 N. Y. 341, 28 N. E. 514; *Hargro v. Hodgdon*, 89 Cal. 623, 26 Pac. 1106. It would not seem, however, that the delegation to a private citizen by the state of injunction proceedings against public nuisances should be objectionable. *Littleton v. Fritz*, *supra*. The majority opinion pointed out that the legislature had exercised its power of enlarging the powers of courts of equity to grant injunctions and of extending the remedy beyond the mere protection of property. *Ex parte Warfield*, 40 Tex. Cr. R. 413, 50 S. W. 933, 76 Am. St. Rep. 724. Such has been the result, in England, of the judicature act of 1873. The objection most strenuously urged to the statute, and on which the dissenting justice based his opinion, was that it was unconstitutional in that it deprived the relator of the right to a trial by jury. In the opinion of the majority, however, he was not deprived of such trial, for the reason that he could demand a jury as to any